

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

VOLODIMYR PIGIDA,

Defendant.

NOS. CR18-294 RSM

CR23-174 RSM

UNITED STATES' SUPPLEMENTAL
SENTENCING MEMORANDUM

Defendant Volodimyr Pigida has shown nothing but contempt for this Court, the government, and the jury that heard the case against him. Last July, with his sentencing hearing looming on 26 felony convictions, Pigida fled. He sent a letter insisting he's done nothing wrong, and insulting Your Honor, the prosecutors, and everyone else involved in his case. Through the diligent efforts of federal law enforcement was he eventually found. He was arrested hiding behind a false wall in a relative's house in Florida. Agents had to literally drag him out.

Before the scheduled sentencing hearing last summer that did not happen because of Pigida's flight, the government filed a memorandum describing the history of this case

1 and the defining features of Pigida’s fraud scheme. Dkt. 276.¹ The government now files
 2 this supplemental memorandum to address his new failure-to-appear offense and the
 3 appropriate sentence for all his criminal conduct. As explained below, the government
 4 recommends that the Court sentence Pigida to 235 months of imprisonment.

5 I. FAILURE TO APPEAR

6 Pigida’s trial in his underlying fraud case began in November 2022. Dkt. 200. Pigida
 7 was out on bond. Dkt. 22. After approximately three weeks of trial, the jury returned guilty
 8 verdicts on all counts. Dkts. 224, 227.

9 Sentencing was set for August 4, 2023, but Pigida did not appear. Dkts. 259, 278.
 10 A few days before the sentencing hearing, Pigida emailed the Court, his probation officer,
 11 his attorneys, and several assistant U.S. attorneys. PSR ¶ 30. He described his message as
 12 a “protest against the injustice that happened to me.” He claimed that he had no
 13 “opportunity to defend” himself at trial, and that the case against him was “fabricated.” He
 14 called Your Honor “corrupt.” He claimed that the prosecutors “cover[ed] up the truth” and
 15 “blatantly lied in order to win their case.” He said he is “completely innocent.” He closed
 16 by saying:

17 PS I had to leave the country because the system is corrupt and
 18 does not allow innocent people to defend themselves. I want to
 express my contempt for the people who destroyed my life.

19 It turned out that, by the time everyone received this message, Pigida was already gone.

20 The Court issued a warrant for Pigida’s arrest. Dkt. 278. The FBI, the Postal
 21 Inspection Service, and others then set about finding him. His email had said he fled the
 22 country, but agents believed that might not be true. In October 2023, after devoting
 23 substantial time and resources to the search, law enforcement tracked Pigida to a relative’s
 24 house in Parkland, Florida. PSR ¶ 32. A team went there to arrest him, but Pigida
 25 barricaded himself inside. Three hours passed with Pigida refusing to come out peacefully.

26
 27 ¹ Citations to docket entries relate to case number CR18-294 unless otherwise noted.

1 Agents finally arrested him by cutting a hole in the wall to get to his hiding place. They
 2 had to drag him out through the hole. He had a wig, survival equipment, camping supplies,
 3 and other items inside a hidden safe room. There were multiple firearms in the home.

4 Pigida was indicted on a new charge of failure to appear, in violation of 18 U.S.C.
 5 § 3146(a)(1) and (b)(A)(i). Dkt. 1 (CR23-174). The Court remanded him to custody, where
 6 he has remained. Dkt. 11 (CR23-174). In January 2024, he entered an open guilty plea to
 7 the charge. Dkt. 16 (CR23-174). He now appears for sentencing on both cases.

8 **II. GUIDELINES AND RECOMMENDED SENTENCE**

9 **A. Sentencing Guidelines**

10 The presentence report correctly calculates the Sentencing Guidelines advisory
 11 sentence. The offense level is 38, and the criminal history category is I, making the
 12 sentencing range 235 to 293 months. PSR ¶¶ 61, 65.

13 The Probation Office is rightly applying a five-level increase of the offense level
 14 for Pigida's failure to appear. The Ninth Circuit has affirmed this approach in exactly these
 15 circumstances. *See United States v. Rosas*, 615 F.3d 1058, 1063–66 (9th Cir. 2010). Pigida
 16 objects that the increase is “double punishment,” Dkt. 24 (CR23-174) at 5, but his objection
 17 has no basis in the Guidelines and, in any event, is foreclosed by *Rosas*.

18 Additionally, the Probation Office is rightly applying a 20-level increase of the
 19 offense level for a loss exceeding \$9.5 million. PSR ¶ 50. The government's evidence at
 20 trial, as recounted in the presentence report, established that TSP promoters collectively
 21 lost over \$11 million in the Ponzi scheme. *Id.* Pigida objects to the loss amount, claiming
 22 it was actually several million dollars lower, but he is narrowly focused on the unrecovered
 23 losses claimed in TSP's bankruptcy. That loss amount is only a subset of the overall losses
 24 because not all victims of the Ponzi scheme had claims in the bankruptcy case. Pigida is
 25 correct insofar as he points out that some promoters recovered some funds in the
 26 bankruptcy. But even if the Guidelines loss amount were to take account of recoveries in
 27 the bankruptcy case—which it should not—the loss amount would still exceed the \$9.5

1 million threshold for the 20-level increase, as discussed further in the “Restitution” section
2 below.

3 **B. Recommended Sentence of Imprisonment**

4 The Court should sentence Pigida to 235 months of imprisonment. The government
5 recommends that, as to each count, the sentence be as follows, with all terms served
6 concurrently:

7	CR18-294	Count 1:	60 months
8		Counts 2–11, 13–21:	235 months
9		Counts 22–26:	60 months
10		Count 27:	235 months
11	CR23-174	Count 1:	120 months

12 In arriving at this recommendation, the government’s overriding consideration is
13 that there is simply nothing in the record to justify a downward departure or variance from
14 the Guidelines range. Pigida carried out a massive, years-long fraud that badly harmed
15 thousands of victims. When TSP plunged into bankruptcy, the fraud went on unabated,
16 with Pigida falsifying documents and lying under oath. And then the entire history of this
17 prosecution reveals—more than a continued unwillingness to accept responsibility—an
18 active defiance of the Court’s authority and the criminal justice process. Pigida’s email
19 message insulted the Court and virtually every other participant in his case, all because a
20 jury of his peers convicted him of the charges against him after a fair trial.

21 As if all that were not egregious enough, there is Pigida’s failure to appear at his
22 sentencing hearing last August. He abused the trust that the Court had placed in him when
23 it allowed him to stay out of custody, particularly after he was convicted at trial. He went
24 to great lengths to cover his tracks after he fled, meaning law enforcement agents had to
25 expend considerable resources to find and arrest him. When he was finally found, he still
26 did not come willingly, but rather only after a three-hour standoff that ended when law
27 enforcement pulled him out through a wall.

1 Pigida's many victims have been waiting for this sentencing for more than a decade.
 2 He needs to be held accountable for 27 serious felonies. No aspect of the record before the
 3 Court justifies any leniency.

4 Remarkably, Pigida's sentencing recommendation is lower than where it was before
 5 his failure to appear. Last summer, before Pigida absconded, he asked the Court to impose
 6 an 84-month sentence. Dkt. 275. Now he is asking for 60 months. Dkt. 24 (CR23-174).
 7 The inexplicable change can only be seen as further evidence of Pigida's dim view of this
 8 Court and his continued lack remorse for his crimes.

9 **C. Supervised Release**

10 The government joins the Probation Office in urging that the Court impose a three-
 11 year term of supervised release with all the conditions of supervision recommended in the
 12 presentence report.

13 **D. Restitution**

14 In preparation for this sentencing, the government calculated that Pigida owes
 15 \$10,933,455.09 in restitution to 3,315 victims. It calculated those figures using the analysis
 16 of TSP's books and records performed by an FBI forensic accountant (who testified about
 17 her analysis at trial). This analysis allowed the government to identify every known TSP
 18 promoter who ultimately lost money in the Ponzi scheme. The government then reduced
 19 those loss amounts by any identifiable recoveries made by the promoters in TSP's
 20 bankruptcy case. The government shared detailed information about its methodology and
 21 results with the Probation Office and the defense on April 26, 2024. A spreadsheet with
 22 victim initials and loss amounts is ready for inclusion with the judgment.

23 Pigida does not appear to challenge the government's calculation. Instead, his only
 24 stated objection is that "[r]estitution should be limited to the restitution obligation imposed
 25 on co-defendant Bondarenko." Dkt. 24 (CR23-174) at 10. This objection is meritless.

26 As the Court will recall, Marina Bondarenko pleaded guilty to the bankruptcy fraud
 27 (Count 22). Dkt. 67 at 1. Her plea was limited to that charge, and the government agreed

1 to dismiss the remaining counts against her. *Id.* Given that disposition, Bondarenko and the
2 government agreed on an amount of restitution representing loss attributable solely to the
3 bankruptcy fraud. The Court then ordered restitution in Bondarenko’s judgment “pursuant
4 to [the] plea agreement.” *Id.* at 6.

5 The approach to restitution followed in Bondarenko’s case is common in cases that
6 resolve by plea agreement, and it is specifically allowed for by law. *See* 18 U.S.C.
7 § 3663(a)(3) (“The court may . . . order restitution in any criminal case to the extent agreed
8 to by the parties in a plea agreement.”). It does not offend Pigida’s rights, as he now
9 suggests, for the Court to follow a different approach to ordering restitution in his case.
10 Pigida, unlike Bondarenko, is before the Court having been convicted of every charge
11 brought against him at trial. He is accountable to all the victims of his entire scheme for
12 the full amount of their losses. Certainly, Pigida’s restitution amount should be joint and
13 several with Bondarenko insofar as they overlap, but her restitution amount is not a cap on
14 his. The Court should order Pigida to pay \$10,933,455.09 in restitution.

15 //

III. CONCLUSION

Pigida committed serious crimes that harmed thousands of people, and he has shown nothing but contempt for the judicial process that must hold him to account. The Court should impose a stern sentence of 235 months of imprisonment and order full restitution for the victims of his crimes.

DATED: May 10, 2024

Respectfully submitted,
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